

Exhibit M-L

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DAVID AGOADO, LEEANN MCNALLY,
CRAIG MOORE, CHRIS PIERRE, THOMAS
SHARKEY, MADGE SHIPMAN, and DOREEN
VAZQUEZ individually and on
behalf of all others similarly situated,
Plaintiffs,

-against-

MIDLAND FUNDING, LLC, MIDLAND
FUNDING, LLC. doing business in
New York as MIDLAND FUNDING OF
DELAWARE, LLC, and MIDLAND
CREDIT MANAGEMENT, INC.,
Defendants.

-----x

5036 Jericho Turnpike
Commack, New York

July 14, 2015
10:53 a.m.

Examination Before Trial of the
Plaintiff, CRAIG MOORE, pursuant to
Order, before CINDY A. AFANADOR, a Notary
Public of the State of New York.

CINDY AFANADOR COURT REPORTING, INC.
516-491-2694
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1 Craig Moore

2 A. A few times.

3 Q. Okay.

4 Do you remember when the first
5 time you met with him was?

6 A. The first time I met with him was
7 probably a few -- maybe last year I want to
8 say.

9 Q. Okay.

10 Before we go any further, do you
11 have any questions of me or your attorney you
12 wish to put on the record?

13 A. No.

14 Q. Okay.

15 Could you please tell me your
16 name and your current address?

17 A. My name is Craig Moore. My
18 current address is 25 Crater Lake Drive in
19 Coram, New York 11727.

20 Q. How long have you lived at that
21 address?

22 A. I've lived at that address since
23 2006.

24 Q. And does anybody live with you at
25 that address?

1 Craig Moore

2 Q. Is that correct, and it's signed
3 by both Alan Finkel and yourself, Mr. Moore?

4 A. Yes.

5 Q. That's your signature?

6 A. Yes.

7 Q. Okay.

8 So let's take a look at this for
9 a few minutes.

10 By the way, when you first
11 received -- let's step back.

12 Going back to number 2, when you
13 first got that letter --

14 A. Number 2?

15 Q. Yes.

16 A. (Witness reviewing.)

17 Q. -- what did you think that was
18 about?

19 A. I don't know what it was about.

20 Q. Had you heard of Midland Funding
21 at that time?

22 A. No.

23 Q. Now, the third paragraph, it says
24 that Midland and/or their attorneys' actions
25 may have been in violation of federal and

1 Craig Moore

2 state law; do you see that?

3 A. Yes.

4 Q. Did you have any idea what that
5 meant?

6 A. Yes.

7 Q. What did that mean?

8 A. That they were in violation of
9 federal and state law. That they broke the
10 law somehow.

11 Q. Did you have any idea what that
12 might -- how that might have happened?

13 A. No.

14 Q. Okay.

15 And at that time you never heard
16 of Midland Funding Corp.?

17 A. No.

18 Q. Let's turn to number 3.

19 A. (Witness complying.)

20 Q. After you got that letter and you
21 contacted Mr. Finkel -- I'm sorry.

22 A. Got this letter (indicating)?

23 Q. Number 2, you contacted
24 Mr. Finkel?

25 A. Yes.

1 Craig Moore

2 Drive, Coram, New York 11727.

3 MR. FRANK: Off the record.

4 (Discussion held off the record.)

5 (Moore Exhibit 5, Document bearing
6 Bates stamp P&P #213 through #220, marked
7 for identification.)

8 Q. Mr. Moore, I am going to show you
9 what's been marked as Moore 5 and ask you to
10 take a look at it (handing)?

11 A. (Witness reviewing.)

12 Okay.

13 Q. And have you seen this document
14 before?

15 A. Yes.

16 Q. And for the record, this is a
17 Summons and Complaint in foreclosure filed by
18 Wells Fargo Bank against yourself and your
19 wife and several other individuals regarding
20 the property at 25 Crater Lake Drive; is that
21 correct?

22 A. Yes.

23 Q. Do you recall when you received
24 this originally -- step back.

25 Did you get this -- you see that

1 Craig Moore

2 it's dated, the summons. On the first page it
3 says it was filed on 6/12/12; do you see that?

4 A. Yes.

5 Q. And it looks like the second --
6 take a look at page 2, please?

7 A. (Witness reviewing.)

8 Q. And that's dated June 25, 2012
9 and it says, "Notice: You are in danger of
10 losing your home."

11 Do you see that?

12 A. Yes.

13 Q. Do you recall receiving this
14 around that time, June 25, 2012?

15 A. I don't remember.

16 Q. Do you recall receiving this?

17 A. Yes.

18 Q. Back around that time?

19 A. I don't remember. I know I
20 received this letter, but I don't remember
21 what date I received it.

22 Q. Is it fair to say that you
23 received it in 2012, sometime in the summer of
24 2012?

25 A. I guess.

1 Craig Moore

2 Q. Okay.

3 Did you file an answer to this
4 complaint?

5 A. No.

6 Q. Did you see an attorney about
7 this complaint?

8 A. No.

9 Q. Okay.

10 But you did get a copy of this
11 complaint at the time when the foreclosure
12 action was filed?

13 A. I know I got a copy of this
14 complaint, yes.

15 Q. And what did you do when -- after
16 you got a copy of the complaint?

17 A. I dealt with my mortgage company.

18 Q. And who was your mortgage
19 company; do you recall?

20 A. It was Option One at the time.

21 Q. Just because I am going to ask
22 you about this, looking at page 2, you see the
23 third -- the fourth underlined group of words,
24 it says -- you see where it says, "Sending a
25 payment to your mortgage company will not stop

1 Craig Moore

2 this foreclosure action"?

3 A. Yeah, I see that.

4 Q. You see right below it it's in
5 all capital letters, "You must respond by
6 serving a copy of the answer on the attorney
7 for the plaintiff (mortgage company) and
8 filing the answer with the Court."

9 Do you see that?

10 A. Yes.

11 Q. And did you file an answer with
12 the Court or with the attorney for the
13 plaintiff?

14 A. No.

15 Q. Do you have any idea why the
16 County of Suffolk Office of Community
17 Development got a copy of the complaint?

18 A. Say it again.

19 Q. Do you have any understanding of
20 why, and it looks like at the bottom of page 2
21 it says to and it says Craig N. Moore; do you
22 see that?

23 A. Yes.

24 Q. Below that it says Candice A.
25 Moore?

1 Craig Moore

2 into a mortgage modification plan or you were
3 discussing mortgage modification prior to
4 getting this complaint?

5 A. I believe, yeah, a little bit
6 after getting this complaint.

7 Q. After the complaint?

8 A. Yeah.

9 Q. That was the resolution of this
10 complaint?

11 A. Yes.

12 Q. You entered into a mortgage
13 modification?

14 A. We were -- yeah, modification. I
15 think. I'm not sure.

16 Q. Well, you are still living at
17 25 Crater Lake Drive?

18 A. Yes.

19 Q. You worked out something at that
20 time?

21 A. Yes.

22 Q. And to your knowledge, was this
23 complaint dismissed at some point?

24 A. No. I don't think so, because
25 the company sold, as far as what I know.

1 Craig Moore

2 Q. So you don't know what happened
3 to this complaint?

4 A. No, I don't know what happened to
5 it. I know it's still filed.

6 Q. But is it open or you don't know
7 if it's open or closed?

8 A. I don't know how open and closed
9 it is. No, I don't know that.

10 Q. Did you ever feel it might be
11 wise to check?

12 A. No.

13 Q. You said you got your credit
14 report recently?

15 A. Not recently, but like three
16 years ago, I believe so, if I am correct.
17 '08.

18 Q. Well, that's more than two years
19 ago.

20 A. 2010, 2011, maybe, somewhere
21 around there. I know it's a little bit after
22 my mother passed I got it. I believe so.

23 Q. That would be 2013?

24 A. Um-hum.

25 Q. That's --

1 Craig Moore

2 It states -- looking at the first
3 paragraph, do you understand what the first
4 paragraph means? Do you have an understanding
5 of what that means?

6 A. Today, yes. Reading it right
7 now, yes.

8 Q. I don't want to put words in your
9 mouth. I am going to ask you if you can
10 interpret it for us, what it's telling you?

11 A. It says something GE whoever
12 that maybe has been purchased by Midland
13 Funding of Delaware and has placed, you know,
14 a law firm to collect for collections.

15 Q. And it says your account with GE
16 Money Bank, right?

17 A. Yes, states my account, yeah.

18 (Moore Exhibit 10, Document bearing
19 Bates stamp P&P #7 through P&P #9, marked
20 for identification.)

21 Q. I am going to show you what's
22 been marked as Moore 10 (handing).

23 A. (Witness reviewing.)

24 Q. I ask you to take a look at that.

25 A. (Witness reviewing.)

1 Craig Moore

2 Q. Have you seen this document
3 before?

4 A. No, I didn't see this document
5 before.

6 Q. For the record, this is a
7 summons, page 1, and the second and third
8 pages are a complaint.

9 It's Midland Funding, LLC d/b/a
10 in New York as Midland Funding of Delaware,
11 LLC, against Craig Moore. It's dated 6/27/11.
12 And you notice that underneath -- you
13 understand what the caption is, because we've
14 talked about caption before?

15 A. The top?

16 Q. Right. Okay.

17 And you see right below the
18 caption it says defendant's residence address?

19 A. Um-hum.

20 Q. Is that your address?

21 A. Under defendant's residence
22 address, yes, sir, 25 Crater Lake Drive,
23 Coram, New York 11727.

24 Q. And it's your testimony, as you
25 sit here today, that you have never seen this

1 Craig Moore

2 complaint before?

3 A. I have never seen this complaint.

4 Q. Has your attorney shown you this
5 complaint; is that possible?

6 Let me ask a different way.

7 Has your attorney shown you this
8 complaint?

9 A. I can't remember if he showed it
10 to me.

11 Q. Okay.

12 And it's your testimony you never
13 saw -- if he did show it to you, that would
14 have been the first time you had seen it, you
15 hadn't seen it prior to that?

16 A. Yeah, if he did show it to me
17 that was probably my first time seeing it, but
18 I never seen this before.

19 Q. Okay.

20 (Moore Exhibit 11, Document bearing
21 Bates stamp P&P #163, marked for
22 identification.)

23 Q. I am going to show you what's
24 marked as Moore 11 (handing).

25 A. (Witness reviewing.)

1 Craig Moore

2 A. A chef has to be in -- I am in
3 sometimes 6 o'clock in the morning. All
4 depending what's going on that day.

5 Q. Was it the same with Smokey
6 Bones?

7 A. Yes, even earlier. Truck days,
8 5:30; inventory days, 5:00.

9 Q. I'm going to ask you to take a
10 look at the fourth paragraph where it starts
11 out pursuant to C.P.L.R.?

12 A. Yes. Okay.

13 Q. And it says on 8/6/2011, service
14 was completed by depositing a true copy of
15 each document to the above address; do you see
16 that?

17 A. Um-hum.

18 Q. And I'm going to ask you to go up
19 to the second paragraph and it says -- what is
20 the address where this -- where the process
21 server states that this complaint was served?

22 A. Saying that it's 7/25 at
23 4:36 p.m.

24 Q. Not paragraph above.

25 A. It was served on 8/5 at 9:50 a.m.

1 Craig Moore

2 Q. Right. It says --

3 A. Summons and Complaint on
4 Craig Moore, 25 Crater Lake Drive in the
5 matter indicated below.

6 Q. 25 Crater Lake Drive, that's your
7 address, correct?

8 A. Yes, sir.

9 Q. And it says on the next
10 paragraph, it says "Affixing to the door."
11 According to what I am reading, and you tell
12 me if I am right or wrong, looks like on
13 July 25th and July 27th, someone went to the
14 house and then on August 5, it was affixed to
15 the door; that's my understanding?

16 A. Um-hum.

17 Q. Do you agree with that? Is that
18 what it appears to you?

19 A. That's what I am reading on this
20 affidavit, yes.

21 Q. And, as you sit here today, under
22 oath, your testimony is that a copy of the
23 summons and complaint was never affixed to
24 your door?

25 A. No, sir.

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Craig Moore

Q. And it says here in the last paragraph, it says it was mailed -- a copy of this, of the Summons and Complaint was mailed to you on August 6, 2011?

A. I don't know if it was. I never received anything.

Q. Okay.
So your testimony today is you didn't receive it on that occasion either, but that is your address?

A. Yes, sir.

Q. Okay.

A. I don't remember if I did.

Q. Is it possible that you did?

A. I don't know.

Q. All right.

So just so we are clear, you don't recall, but it's possible or you are sure you never got it?

A. I never got it. Something like that I think I would remember or if I would see it on my door. I don't remember. It's four years. To be honest with you, I don't know.

1 Craig Moore

2 (Moore Exhibit 12, Document bearing
3 Bates stamp P&P #17 through P&P #20,
4 marked for identification.)

5 Q. I am going to show you what we
6 marked as Moore 12 (handing).

7 A. (Witness reviewing.)

8 Q. I ask you to take a look at it.

9 A. (Witness reviewing.)

10 Q. It's four pages.

11 A. (Witness reviewing.)

12 Q. Have you had a chance to review
13 it?

14 A. Yes.

15 Q. And Mr. Moore, just so we are
16 clear, a lot of documents I've shown you up
17 until now, including this one, this is an --
18 this is not signed. There is a name on it.
19 Did you see there is a name on it, but it's
20 not a signed copy?

21 A. (Witness reviewing.)

22 Q. You see there is no signature on
23 it?

24 A. Um-hum.

25 Q. Most of the documents I've shown

1 Craig Moore

2 MR. WILLIAMSON: That's fine.

3 Q. Are we on --

4 A. Yes, I gotcha.

5 Q. That's how you have been
6 answering your questions up until now?

7 A. Yes.

8 Q. Fair enough.

9 Have you seen this document
10 before, this is a letter dated August 25, 2011
11 and it's addressed to you; is that correct,
12 sir?

13 A. Yes.

14 Q. And that's your address on top of
15 the letter?

16 A. Yes, 25 Crater Lake Drive.

17 Q. This is a letter from Pressler
18 and Pressler?

19 A. Yes.

20 Q. Okay.

21 And you see the first sentence in
22 the letter, it says, "Enclosed please find a
23 copy of the summons and complaint filed with
24 District Court of the County of Suffolk, First
25 District, Ronkonkoma."

1 Craig Moore

2 A. Yes.

3 Q. As you sit here today, you state
4 you've never received this letter?

5 A. No.

6 Q. But this is your address?

7 A. Yes, that's my address. I don't
8 remember receiving this letter, to be honest
9 with you. I don't remember it. I don't think
10 I ever did. I don't remember it.

11 Q. The letter encloses the summons
12 and complaint, the same one as I showed you
13 previously, correct?

14 A. Yes.

15 Q. As you sit here today, you don't
16 recall that you ever received this?

17 A. No, I don't recall receiving
18 this.

19 Q. I will ask again, is it possible
20 that you received it and you just don't
21 remember?

22 A. I don't know.

23 Q. Okay.

24 The summons, which is the same
25 summons that I showed you earlier, look at

1 Craig Moore

2 page 2, 6/27/11 with your address on it.

3 A. The second page with my address
4 on it?

5 Q. Yes.

6 A. Yes, that's my address.

7 Q. And this is a copy of what I
8 showed you earlier, the summons and complaint?

9 A. Yes, this is a copy of what you
10 just showed me.

11 Q. Okay.

12 (Moore Exhibit 13, Document bearing
13 Bates stamp P&P #16, marked for
14 identification.)

15 Q. I show you what's marked as
16 Moore 13 (handing).

17 A. (Witness reviewing.)

18 Q. That's a letter dated August 25,
19 2011.

20 A. (Witness reviewing.)

21 Q. I ask for you to look this over
22 and tell me if you recall seeing this letter
23 before?

24 A. I don't recall.

25 Q. And who's the letter addressed

1 Craig Moore

2 to?

3 A. Craig Moore.

4 Q. And that's you, sir?

5 A. Yes.

6 Q. And that's at your address, 25
7 Crater Lake Drive?

8 A. Yes.

9 Q. Okay.

10 And this was the address you were
11 living at in 2011?

12 A. Yes.

13 Q. Do you have any reason to doubt
14 that this letter was sent to you on that date?

15 MR. FRANK: Objection, form.

16 A. I don't know. I don't remember.

17 Q. I understand that you don't
18 remember -- you are saying you don't remember
19 seeing it?

20 A. Yes.

21 Q. But I am asking, do you have any
22 reason to doubt that it was, in fact, sent?

23 A. I don't know. I don't know if it
24 was sent or not to me, if I didn't receive it.
25 I don't know if it was sent. I don't remember

1 Craig Moore

2 seeing it. Did I have to sign for it? I
3 don't know.

4 Q. Well, if you would have had to
5 sign for it, do you normally -- if you get
6 certified mail, if you get a note from the
7 post office that you have certified mail, do
8 you normally go and pick it up?

9 A. Yes.

10 Q. You do?

11 A. Yeah.

12 Q. Okay.

13 Have there been occasions that
14 you recall where you got a notice that you got
15 certified mail and you didn't go and pick it
16 up?

17 A. I remember -- I mean there's
18 times, yeah, that I didn't go and pick it up.
19 My wife may have gone to pick it up.

20 Q. But somebody would go and pick it
21 up?

22 A. Yeah.

23 Q. That's what you meant?

24 MR. WILLIAMSON: You can call it
25 when you want a break. I will keep

1 Craig Moore
2 going until you stop me.

3 MR. FINKEL: Go another 15
4 minutes.

5 MR. WILLIAMSON: That's fine.

6 (Moore Exhibit 14, Document bearing
7 Bates stamp P&P #21, marked for
8 identification.)

9 Q. I am showing you what I marked as
10 Moore 14 (handing).

11 A. (Witness reviewing.)

12 Q. I ask you to take a look at it,
13 please --

14 A. (Witness reviewing.)

15 Q. -- and read it.
16 I mean it's not too long.
17 This is a letter dated 8 --
18 9/7/11.

19 MR. FRANK: Off the record.

20 (Discussion held off the record.)

21 BY MR. WILLIAMSON:

22 Q. You have read it?

23 A. Yes.

24 Q. I am just going to point your
25 attention -- this letter is addressed to you,

1 Craig Moore

2 sir?

3 A. Yes, it is.

4 Q. And you were living at 25 Crater
5 Lake Drive on September 7, 2011?

6 A. Um-hum.

7 Q. You have to say yes or no.

8 A. Yes.

9 Q. And you see in the re line, it
10 has a re line and it mentions a district
11 court?

12 A. Yes.

13 Q. And you see the first sentence of
14 the letter?

15 A. Um-hum.

16 Q. You have been served with a
17 summons and complaint in the above-referenced
18 matter and you have failed to contest it.

19 A. Um-hum.

20 Q. Have you seen this letter before?

21 A. No.

22 Q. Do you have any reason to doubt
23 that the letter was sent to you on the date
24 listed?

25 MR. FRANK: Objection to the form

1 Craig Moore

2 of the question.

3 A. I don't know. I don't remember
4 seeing this letter.

5 Q. As you sit here today, if I gave
6 you this letter, what -- would you have any
7 kind of reaction to it?

8 MR. FRANK: Objection to the form
9 of the question.

10 A. If -- if -- yeah. Can you
11 rephrase that a little bit?

12 Q. Sure.
13 If you received a letter at home
14 this week --

15 A. Today?

16 Q. Today, yesterday, tomorrow, what
17 would you do with it?

18 MR. FRANK: Objection.

19 Calls for speculation.

20 Q. If anything?

21 A. I don't know. I don't know what
22 I would do. I would wonder who the hell is
23 Midland Funding without knowing it today.

24 Q. Okay.

25 A. Or with the case, yeah, I would

1 Craig Moore

2 this document before?

3 A. No.

4 Q. Okay.

5 Did you have a JCPenney account?

6 A. Yes.

7 Q. Charge account?

8 A. Yes, I believe so.

9 Q. What happened to that account;
10 did you pay it off and close it?

11 A. I received -- I don't know. I
12 never paid -- I don't think I paid it off. I
13 know I owed them. I don't know exactly how
14 much.

15 Q. Do you know if GE Money Bank was
16 the bank behind that account?

17 A. No. I don't know anything. I
18 just know -- I know JCPenney, but that's about
19 it.

20 Q. Do you remember how much money
21 you owed them on it when you stopped paying?

22 A. No. I owed them some money. I
23 don't know exactly how much.

24 Q. Could it have been a couple of
25 thousand?

1 Craig Moore

2 A. I'm not sure exactly how much it
3 was.

4 Q. If -- is it possible that it was
5 a couple of thousand dollars or you think it
6 was less?

7 A. No, should have been less,
8 'cause -- I mean my account -- I don't
9 remember, to be honest with you. I know I
10 owed them money, but not that much. I don't
11 think I owed them that much.

12 Q. Do you know what happened to that
13 account, besides you say you owed the money,
14 did they try to collect it from you?

15 A. They sent me a few bills a couple
16 of times. I got a couple of statements from
17 them, but that was it.

18 Q. You didn't do anything about it?

19 A. No, at the time, no, I hadn't.

20 Q. When you were doing -- when the
21 foreclosure action was filed, and you were
22 reorganizing -- doing your mortgage, did they
23 ask you for a list of all your outstanding
24 debts?

25 A. No.

1 Craig Moore

2 Q. Okay.

3 I would like you to look and
4 direct your attention to the first paragraph.

5 A. (Witness reviewing.)

6 Okay.

7 Q. Do you have any reason to doubt
8 that Paula Hansen was employed as a legal
9 specialist at Midland Credit Management?

10 A. Based on this statement right
11 here right now?

12 Q. Right.

13 Do you have any basis to
14 challenge that statement?

15 A. No. I don't know.

16 Q. Do you have any basis to
17 challenge that she has access to pertinent
18 account records?

19 MR. FRANK: I am going to object
20 on the basis of privilege. Any
21 information that your attorneys may have
22 furnished you in anticipation of
23 litigation is attorney work product, so
24 if you are able to answer the question
25 without divulging any attorney/client

1 Craig Moore

2 work product, please do so.

3 MR. WILLIAMSON: Okay.

4 Q. So let me rephrase, because I am
5 not going to argue with your counsel.

6 I want to emphasize, I am asking
7 do you have any knowledge, that you know, not
8 what your attorney told you? I don't want to
9 know what your attorney told you. So when I
10 ask you do you have any knowledge, do you have
11 any reason, you independently, irrespective --
12 I don't care what he told you. I don't want
13 to know what he told you or Mr. Finkel told
14 you or anybody else told you. I want to know
15 what you know on your own.

16 So do you have any basis, and
17 that's what I mean when I say do you have any
18 basis, that's what I am getting at, to
19 challenge the accuracy that Paula Hansen had
20 access to pertinent account records for
21 Midland Credit Management?

22 A. I don't even know who she is. I
23 don't know. Based off of what I am reading
24 right now, no.

25 Q. You have no basis to challenge

1 Craig Moore

2 that statement?

3 A. No.

4 Q. Okay.

5 Do you have any basis to
6 challenge that she has personal knowledge of
7 the account records maintained on plaintiff's,
8 that being Midland's, behalf?

9 MR. FRANK: Again objection on
10 the basis of privilege.

11 MR. WILLIAMSON: Again, all these
12 questions -- I think we set the ground
13 rules.

14 Q. All the questions I am asking
15 about this document, your knowledge, not what
16 he told you or somebody else told you.

17 A. No.

18 Q. One of your attorneys told you?

19 A. No.

20 Q. So no, you have no basis to
21 challenge?

22 A. No.

23 MR. FRANK: Just for the record,
24 not just what we told him, but also, you
25 know, any communications that we gave to

1 Craig Moore

2 him that might be implicated in our
3 attorney work product are relevant to
4 this litigation.

5 MR. WILLIAMSON: If you testified
6 you fed him information, okay.

7 MR. FRANK: Of course we did the
8 investigation, of course we gave him
9 information.

10 Q. Do you have any basis to
11 challenge the fact that the GE Money account
12 number 6008894762841387 was assigned to
13 Midland Credit Management?

14 A. Besides what my attorneys told
15 me, no.

16 Q. And do you have any basis to
17 challenge the statement made by Paula Hansen
18 in this affidavit, "I have access to and have
19 reviewed the records pertaining to the
20 account"?

21 A. No.

22 Q. Okay.

23 Now let's look at paragraph 2.

24 A. (Witness reviewing.)

25 Q. Do you have any basis to

1 Craig Moore

2 A. No.

3 Q. Okay.

4 Then goes on. The next sentence
5 goes "The relevant financial information
6 concerning the account includes the
7 following," and we go to the next page.

8 A. (Witness reviewing.)

9 Q. It says, "The account shows that
10 the defendant(s) owed a just and true balance
11 of \$504.03 as of 2011, 5/15. Do you have any
12 basis to dispute that that is what the account
13 showed?

14 A. No.

15 Q. Okay.

16 Do you have any basis to dispute
17 the rest of that sentence? Just read it and
18 tell me if you do.

19 A. (Witness reviewing.)

20 No.

21 Q. No? The answer is no, you have
22 no basis to dispute that statement?

23 A. No.

24 Q. Okay.

25 When you had credit cards, and I

1 Craig Moore

2 I will give it a stab.

3 MR. FRANK: Let me explain, his
4 understanding of what actual damages are
5 or aren't if that understanding is a
6 function of his attorneys telling him.

7 MR. WILLIAMSON: Fine. I am
8 going to define it for him. You can
9 disagree if you choose.

10 Q. I understand actual damages to be
11 out-of-pocket costs that you incurred.

12 Have you suffered any
13 out-of-pocket actual costs in regards to any
14 of your allegations that are in the complaint?

15 A. No.

16 Q. So you have paid no monies to
17 anybody as a result of anything that's
18 contained in any of the allegations contained
19 within the complaint?

20 A. No.

21 Q. In your mind, in your mind, have
22 you suffered any other, and I am asking in
23 your mind, have you suffered any other damages
24 that you could tell me about? In your mind.
25 I am not asking what your attorneys told you.

1 Craig Moore

2 I am not asking about statutory damages. What
3 do you think you've suffered, if anything?

4 A. Suffered a lot.

5 Q. What have you suffered?

6 A. Harassment.

7 Q. From who?

8 A. From -- I was getting repeated
9 phone calls, that's all I remember at the
10 time. We were getting phone calls and it was
11 like all the time, day and night. And they
12 were leaving messages, 'cause we weren't home,
13 you know, and I constantly was getting phone
14 calls, constantly.

15 And I feel that, you know, I
16 wasn't shown proof, because I didn't even know
17 anything. I spoke to my attorney what Midland
18 was, what the case was about and my question
19 was, I'm thinking it was a Verizon bill that I
20 owed and it came out to be something more than
21 that, you know. And it's -- I mean I felt
22 like I was taken advantage of, personally.

23 Q. How so?

24 A. Because they are saying I owed
25 them something but no one showed me anything

1 Craig Moore

2 Pressler is?

3 A. As of today I know who they were.

4 Q. Today?

5 A. Yes.

6 Q. Before today?

7 A. I mean through my attorneys I
8 find out who they were.

9 Q. They told you who they were?

10 A. Yes.

11 Q. You didn't know about them
12 before?

13 A. Yes.

14 Q. Without your attorneys, okay.

15 Have you ever had any of your
16 bank accounts restrained by anybody?

17 A. I don't understand what you mean.

18 Q. Okay.

19 A. Like a hold put on my accounts?

20 Q. Yes.

21 A. Not that I can remember.

22 Q. Okay.

23 Has anybody ever garnished your
24 wages?

25 A. I've had my wages garnished.

1 Craig Moore
2 credit card or something else, some other kind
3 of account?

4 A. No, I don't know.

5 Q. Okay.

6 Now, in your own words, if I
7 asked you this, I apologize. I am asking it.
8 What is this case about? What is your
9 understanding of what this case is about? And
10 this case -- when I say "this case," I mean --

11 A. This case?

12 Q. David Agoado versus Midland
13 Funding.

14 A. Based off what I -- my attorneys
15 told me and from what we see is that I was
16 charged an amount --

17 Q. All right. Stop. Time out for a
18 second.

19 I don't want you to tell me what
20 your attorneys told you.

21 A. So just what I know?

22 Q. Yes, what do you know?

23 A. Well, that I was charged "X"
24 amount of dollars, which I knew nothing about
25 and somehow someone was able to put --

1 Craig Moore

2 Pressler and Pressler put a judgment against
3 me, which I knew nothing about.

4 Q. Right.

5 A. And I am owed this debt, which I
6 know nothing about, and it's nothing I can do
7 about it. I have to pay the debt, I'm
8 assuming.

9 Q. Have you paid the debt?

10 A. No, I haven't paid the debt, but
11 they are saying I owe them, and I know nothing
12 about it, and that we were taken advantage of,
13 because I should have been let know that I had
14 to be in court and told about these things so
15 I can be able to challenge this.

16 Q. So you think the 20-some odd
17 letters that went to you at your address
18 wasn't enough?

19 MR. FRANK: Objection.

20 The witness is testifying there
21 is no evidence on the record that any
22 letters were sent to his address other
23 than counsel's testimony that they were.

24 Q. You have seen the letters that
25 were addressed to you?

1 Craig Moore

2 A. Yes.

3 Q. And you have no basis to dispute
4 that they were sent, correct?

5 A. Yes, I have no basis.

6 Q. Despite all of that evidence to
7 the contrary, you are saying that nobody ever
8 told you that this was going on until
9 Mr. Finkel contacted you?

10 MR. FRANK: Objection.

11 There is no evidence that the
12 letters were sent on the record. You
13 call that evidence?

14 MR. WILLIAMSON: No, that's his
15 story. That's good.

16 MR. FRANK: Have you produced
17 some other evidence that we are not
18 aware of? Are you in possession of
19 evidence that these letters --

20 MR. WILLIAMSON: Are you talking
21 about the videographer who was hiding in
22 the bushes when his mail was delivered,
23 that guy? I am getting him. He is
24 coming.

25 MR. FRANK: Not about the letters

1 Craig Moore
2 privilege. Please divulge only your
3 understandings that were not a direct
4 function of your attorney's
5 communications and what your attorneys
6 told you about this complex federal
7 action.

8 A. Yes.

9 Q. Okay.

10 You said you knew nothing -- you
11 owed a debt, you admit you owe a debt to
12 JCPenney, correct?

13 A. I know I owed. Yes, I owe some
14 credit. I don't know how much it was.

15 Q. That hasn't been paid?

16 A. As far as I know, I don't think
17 so, unless somebody paid it for me.

18 Q. You didn't pay it?

19 A. Yeah.

20 Q. Okay.

21 MR. WILLIAMSON: We've been going
22 for over an hour.

23 MR. FRANK: You want to take a
24 break?

25 MR. WILLIAMSON: Yeah, I think

1 Craig Moore

2 that's a good idea.

3 (Moore Exhibit 26, Document bearing
4 Bates stamp P&P #235 through #236, marked
5 for identification.)

6 Q. I am going to show you what we
7 marked as Moore 26 (handing).

8 A. (Witness reviewing.)

9 Q. I ask you if you have seen this
10 document before?

11 And, for the record, this appears
12 to me to be a credit card statement from a
13 JCPenney credit card, Mr. Moore, would you
14 agree with me?

15 A. Yes.

16 Q. Okay.

17 A. I don't remember this exact
18 statement, but yeah, I mean it is JCPenney,
19 that is my name.

20 Q. And you see where it says
21 under -- you see summary of account activity?

22 A. Yes.

23 Q. And it says previous balance
24 504.03?

25 A. Um-hum.

1 Craig Moore

2 Q. Does that sound about right to
3 you?

4 MR. FRANK: Objection to the form
5 of the question; about right.

6 Q. Does that sound like the balance
7 that was outstanding on your account; does
8 that sound about right?

9 A. Something about that, yeah. I
10 don't remember the exact amount, but I know
11 it's something like that, yes.

12 Q. Okay.

13 And did you pay this -- actually,
14 you said that you didn't -- you still owe
15 money to JCPenney?

16 A. I thought I do, yeah. I didn't
17 know how much it was.

18 Q. Okay.

19 Does this refresh your
20 recollection as to how much it might have
21 been?

22 A. Could have been something around
23 that, but I'm not sure. That's something
24 around where it is.

25 Q. So that seems it's in the

1 Craig Moore

2 ballpark?

3 A. Similar, yeah.

4 Q. Okay.

5 I want you to turn to the second
6 page.

7 A. (Witness complying.)

8 Q. And I note that this is small,
9 you know, it's reduced, the Xerox?

10 A. Um-hum.

11 Q. It's hard to read.

12 A. Okay.

13 Q. But you are younger than I am and
14 I am going to guess your eyes are better than
15 mine. And if you look, there is, underneath
16 the black bar, there's a couple of paragraphs,
17 then there is like a little box where it says
18 bankruptcy notice.

19 A. Card benefits subject to change?
20 That part? Are you saying underneath that?

21 Q. No. Wait a second, because I
22 can't see that.

23 MR. FRANK: This little box
24 (indicating)?

25 MR. MATTHEW JOHNSON: Yes.

1 Craig Moore

2 A. Yes, this. Okay. I got it. I
3 see it now.

4 Q. And it's really -- I need a
5 magnifying glass, to be honest, to find it
6 with the way it's copied.

7 Did you see where it says the
8 third line in that box "Your account is owned
9 and serviced by GE Money Bank"?

10 A. Complete terms and conditions,
11 yes, I see it.

12 Q. Where are you looking, just point
13 out?

14 A. I just read it, right after. I
15 finished reading it.

16 Q. Okay. I see. Because I had
17 trouble seeing that. All right.

18 Does this refresh your
19 recollection about the connection between
20 GE Money Bank and JCPenney?

21 A. No.

22 Q. That there is a connection, and
23 does this refresh your recollection that there
24 is a connection between GE Money Bank and the
25 JCPenney account?

1 Craig Moore

2 MR. FRANK: Objection. The
3 witness didn't testify that he didn't
4 remember. He testified that he hadn't
5 heard of GE Money Bank in association
6 with JCPenney account.

7 MR. WILLIAMSON: Fair enough.

8 Q. Does this now refresh your
9 recollection that there's a connection between
10 GE Money and JCPenney?

11 A. It doesn't refresh it. Now I
12 know that it is. I know GE Money is connected
13 with JCPenney.

14 Q. Now, okay.

15 And did you receive statements on
16 a regular basis when the account was opened?

17 A. Yes.

18 Q. Do you recall when you opened the
19 account?

20 A. No.

21 Q. This looks like the date of this
22 account statement closing date is 6/7/2010;
23 does that sound correct?

24 A. That it was closed?

25 Q. Yes.

1 Craig Moore

2 MR. WILLIAMSON: You know, we can
3 do this for another two hours. I don't
4 particularly care to.

5 Q. What did Pressler do to you?

6 MR. FRANK: Again, repeating for
7 the fifth time.

8 MR. WILLIAMSON: He answered
9 about other people. I am asking him
10 about him.

11 Q. What did they do to you? Give me
12 an answer, we will move on.

13 A. I feel like they put a judgment
14 against me without me knowing about it and I
15 have no clue what was going on and they didn't
16 send me any verification on it.

17 Q. They didn't send you any
18 verification letter?

19 A. That I owed them or anything. I
20 didn't know where it came from. I didn't know
21 who they were.

22 Q. Did you ask them for a
23 verification letter?

24 MR. FRANK: Objection.

25 Asked and answered.

1 Craig Moore

2 A. No, I don't recall. I think he
3 was referred to me.

4 Q. By a friend or by --

5 A. By someone that was -- we worked
6 together. She was a realtor. It was referred
7 to me by a realtor.

8 Q. You asked her, can you help me
9 out and get an attorney?

10 A. Yeah.

11 Q. Okay.

12 Let's turn to page 12.

13 A. (Witness complying.)

14 Q. You see in that the last sentence
15 in that paragraph?

16 A. Which paragraph?

17 Q. 38.

18 I'm sorry.

19 A. Okay.

20 Q. I didn't say it. My fault.

21 Last sentence "Midland usually
22 has no right to obtain or even request any of
23 the underlying documentation of the original
24 alleged consumer debt that it purchases."

25 Do you have any information, any

1 Craig Moore

2 factual information to support that?

3 MR. FRANK: Objection on the
4 basis of privilege.

5 Q. Again, I am asking what you know
6 independent of what your attorney told you.
7 If that's the only way you know is through
8 your attorney, then just say I know through my
9 attorney so it's protected.

10 A. I know through my attorney, it's
11 protected.

12 Q. You have no independent knowledge
13 other than your attorney?

14 A. Yes, I have no independent
15 knowledge other than my attorney.

16 Q. Do you know, and I am going to
17 ask for your opinion now, based on your
18 knowledge and what you discussed, whose
19 responsibility is it to file an answer to a
20 complaint, as a general principle?

21 MR FRANK: Objection.

22 Calls for legal analysis.

23 A. An attorney.

24 Q. An attorney for a defendant?

25 A. Yes.

1 Craig Moore

2 think so.

3 MR. FRANK: I think this is now
4 the fifth time you've asked him how he
5 was harassed.

6 MR. WILLIAMSON: I asked how he
7 was damaged. This is different. This
8 is very specific, I think. Maybe it
9 isn't.

10 Q. If you already told me what I
11 thought, then that's the answer.

12 A. I already told you what I
13 thought.

14 Q. When I asked you -- so we are
15 clear, when I asked you how you had been
16 damaged, that was the answer and that would
17 encompass this?

18 MR. FRANK: No. You asked him
19 several times already if he was harassed
20 and how he was harassed. This is
21 becoming so repetitive.

22 MR. WILLIAMSON: I thought I
23 asked how he was damaged or what they
24 did wrong.

25 MR. FRANK: Do you want to

1 Craig Moore

2 briefly answer, in your own words, how
3 you felt you were harassed again?

4 A. Constant phone calls. That's all
5 I remember. It was so long ago. To be honest
6 with you, I remember being I was getting a lot
7 of phone calls and it was at night, during the
8 day, when I got home, I remember that. They
9 left messages.

10 Q. Who's they?

11 A. I don't know who it was from.

12 Q. Okay.

13 And this may be a foolish
14 question, but you didn't keep any notes of any
15 of that?

16 A. No, we didn't.

17 Q. Okay.

18 And I know I asked this, so -- I
19 asked this question before, but I am going to
20 ask it real quick, it's just a yes or no, then
21 we can move on.

22 You had no contact with Pressler
23 and Pressler, that's what you testified to
24 earlier?

25 A. Yes.

1 Craig Moore

2 And you deny that.

3 So you do have evidence showing
4 that Pressler and Pressler lacked a reasonable
5 basis to file a suit?

6 A. What was your question again, I'm
7 sorry?

8 Q. Well, here you deny -- you are
9 asked to admit that you have no evidence
10 showing that Pressler and Pressler lacked a
11 reasonable basis to file the suit, and you
12 deny that, so that means you do have evidence?

13 A. No, I don't have evidence.

14 Q. So then you really should -- this
15 should be an admission, not a denial, number
16 28, correct?

17 A. Yes.

18 Q. Okay.

19 Let's look at Number 29.

20 A. (Witness reviewing.)

21 Q. "Admit that you have no evidence
22 that Midland furnished false information
23 concerning your GE Money Bank account to any
24 credit reporting agency."

25 Again, you deny that.

1 Craig Moore

2 Do you have evidence that Midland
3 furnished false information concerning your GE
4 account?

5 A. Well, they never sent me a
6 statement.

7 Q. Do you have any evidence that
8 they furnished false information?

9 A. No, I don't have any evidence
10 based off of what my attorney showed me, no,
11 only what they showed me.

12 Q. That should be an admission, not
13 a denial; am I correct?

14 A. Yes.

15 Q. Let's look at Number 32.

16 A. (Witness reviewing.)

17 Says here you asked to admit --
18 "Admit that you have no evidence supporting
19 your assertion that Midland Funding could not
20 demonstrate the existence of a debt when
21 lawsuits are filed on its behalf to collect
22 debts in New York State courts."

23 And you deny that. So you do
24 have evidence?

25 MR. FRANK: Objection.

1 Craig Moore
2 about what actual damages are.

3 So maybe you didn't understand
4 when you answered this.

5 I am asking you now actual
6 damages, meaning out-of-pocket expenses, that
7 money came out of your pocket, do you admit
8 that you have incurred no actual damages
9 attributable to the conduct of Midland?

10 A. Yes.

11 Q. So that needs to be changed to
12 admit, not a deny, and the same thing goes for
13 36, where it says "Admit that you have
14 incurred no tangible damages attributable to
15 the conduct of Midland."

16 MR FRANK: Objection. I'm not
17 sure I understand what the word tangible
18 damages is.

19 Q. How can you deny it? Do you know
20 what tangible damages are?

21 A. Anything outside of --

22 Q. If you can describe -- I would
23 say tangible means something you can describe.
24 Can you describe any damages other than what
25 we talked about?

1 Craig Moore

2 A. No.

3 Q. Okay.

4 Next documents.

5 (Moore Exhibit 28, Document
6 entitled Responses and Objections to
7 Midland Funding, LLC's First Set of
8 Interrogatories Directed to Plaintiff
9 Craig Moore, marked for identification.)

10 Q. I show you what we marked as
11 Exhibit 28 (handing).

12 A. (Witness reviewing.)

13 Q. It's Responses and Objections to
14 Midland Funding, LLC's First Set of
15 Interrogatories Directed to Plaintiff Craig
16 Moore.

17 I ask you to take a look at that.

18 A. (Witness reviewing.)

19 Q. I ask if you have seen this
20 document before?

21 A. Yes.

22 Q. And did you provide the factual
23 basis for the statements in it?

24 A. Yes.

25 Q. And you certified the truth of

1 Craig Moore

2 Q. Okay.

3 Do you recall if you ever
4 disputed any charges on the JCPenney account?

5 A. I don't recall it, but I remember
6 when they first called me I disputed it, but I
7 don't remember what it was over.

8 Q. Do you remember whatever it was
9 was resolved?

10 A. I don't know if it was resolved.
11 It was so long ago.

12 Q. It wasn't --

13 A. Yeah, I remember they were
14 calling. I remember JCPenney calling me a few
15 times, but I don't remember.

16 Q. Okay.

17 Getting close to done. Just bear
18 with me.

19 Look at 21.

20 A. (Witness reviewing.)

21 Q. Please.

22 A. Um-hum.

23 Q. Interrogatory 21.

24 It says "Describe all facts that
25 support" your contention "your allegation that

1 Craig Moore
2 Pressler and Pressler filed suit against you
3 without having conducted a reasonable
4 investigation as to the facts they were
5 alleging as alleged in paragraph 9 of your
6 complaint."

7 Do you have any facts other than
8 what your attorneys told you?

9 A. Besides the phone calls and the
10 constant harassment.

11 Q. To support this -- I want you to
12 read the question.

13 A. No.

14 Q. You have no facts, okay.

15 Let's look at Number 24.

16 A. (Witness reviewing.)

17 Q. One, two, three, four, five, six,
18 seven. I see seven lawsuits that were filed
19 against you?

20 A. Um-hum.

21 Q. Do you know what happened with
22 all these lawsuits? I will ask in the first
23 one, Advantage Assets, was the judgment
24 entered on that case?

25 A. I am not sure.

1 Craig Moore
2 are not the right guy, you are the Craig Moore
3 that owed the money?

4 A. Yes.

5 Q. Okay.

6 How should Midland and Pressler
7 and Pressler, how should they have notified
8 you that there was a lawsuit going on; what do
9 you think they should have done that they
10 didn't do?

11 MR. FRANK: Objection.

12 Calls for speculation.

13 Q. They did something wrong. I am
14 asking, what do you think they should have
15 done to notify you?

16 A. I think they should have tried to
17 contact me.

18 Q. Okay.

19 And you don't think they tried to
20 contact you, as you sit here today?

21 A. No, I don't think so. To me, I
22 don't think so because I never received those
23 letters and no one called me and a judgment
24 was placed upon me.

25 Q. No one called you?

1 Craig Moore

2 A. I know I did get phone calls, not
3 from them per se. I think they should have
4 personally reached out to me or make an
5 attempt to come to my house even 10:00 or
6 9 o'clock at night, I don't know.

7 Q. They should have come to your
8 house personally?

9 A. I guess so.

10 Q. No, then we'd be sitting for a
11 real lawsuit.

12 MR. WILLIAMSON: Take two
13 minutes. Let me talk to Mr. Johnson,
14 but I think I may be done.

15 EXAMINATION BY

16 MR. MATTHEW JOHNSON:

17 Q. Okay, Mr. Moore, I am Matthew
18 Johnson. I am an attorney at Marshall,
19 Dennehey, Warner, Coleman & Goggin, and I'm
20 defending Midland Funding, LLC and Midland
21 Credit Management, Inc. in this case.

22 As we talked before, you've been
23 sworn in. You are under oath. So when I ask
24 questions, please give me honest answers. And
25 if I do say anything you don't understand or

1 Craig Moore

2 A. (Witness nodding.)

3 Q. What year is that car?

4 A. 2001 Isuzu Rodeo.

5 Q. And what is your current home
6 telephone number?

7 A. (631) 828-5160.

8 Q. And have you had that number
9 since you moved into your current residence?

10 A. Yes.

11 (Moore Exhibit 30, Document bearing
12 Bates stamp MCM-0356, marked for
13 identification.)

14 Q. So I am going to hand you what's
15 been marked Moore 30 (handing).

16 A. (Witness reviewing.)

17 Yes.

18 Q. And as you can see, this document
19 has been stamped Duplicate across the top. I
20 will represent to you that is not an original
21 part of the document.

22 As you can see on the bottom
23 left, it's also been Bates stamped MCM-0356.
24 Also not part of the original document.

25 What this document appears to be

1 Craig Moore
2 is a JCPenney account statement dated
3 November 10, 2009.

4 Have you seen this document
5 before?

6 A. I don't remember it. I'm
7 assuming I did.

8 Q. And do you see the name and
9 address to which it was addressed, bottom
10 left?

11 A. Yes.

12 Q. Is that your name and address?

13 A. Yes, sir.

14 Q. You can see the account number is
15 partially redacted; what are the last four
16 digits of that account number?

17 A. 1367.

18 Q. And I apologize for the quality
19 of the copy. Could that possibly be 1387 as
20 well?

21 A. It's possible, but it looks like
22 a six.

23 Q. Okay.

24 And let's see.

25 You testified that you did

1 Craig Moore

2 Penneys' accounts or just one Penneys' charge
3 account?

4 A. I only had one.

5 Q. So that might be an accurate date
6 that you opened the Penneys account that's at
7 issue?

8 A. Yes, sir.

9 Q. Now we've got something that says
10 RMS last PMT, which says October 20, 2009.
11 Right below that it says last PMT AMT says 30;
12 do you see that?

13 A. Um-hum. Yes.

14 Q. And we looked at Moore 30, which
15 was that Penneys statement we just reviewed,
16 which reflected a payment on October 20, 2009?

17 A. Yes.

18 Q. Do you think that might be the
19 same payment identified here in this document,
20 Moore 32?

21 A. I assume it is.

22 Q. And if you look at the bottom
23 line, there is some print on there. I will
24 read that.

25 "Data printed by Midland Credit

1 Craig Moore
2 Management, Inc. from electronic records
3 provided by General Electric Capital
4 Corporation, GE Money Bank Retailer Credit
5 Services, Inc., pursuant to the bill of
6 sale/assignment of accounts transferred on or
7 about June 30, 2010 in connection with the
8 sale of accounts from General Electric Capital
9 Corporation, GE Money Bank Retailer Credit
10 Services, Inc., to Midland Funding, LLC."

11 Did I read that accurately?

12 A. Yes.

13 Q. And what would your understanding
14 of that paragraph be, if any?

15 A. They are selling the account.

16 Q. And who is selling?

17 A. Transferring it to GE Capital to
18 Retail Services of Midland Funding, LLC.

19 Q. Okay.

20 Set that one aside.

21 (Moore Exhibit 33, Document bearing
22 Bates stamp MCM-0361 through MCM-0362,
23 marked for identification.)

24 Q. (Hanging.)

25 Just handed you what's been

1 Craig Moore

2 Q. And a few lines down it says SSN
3 and there is a partially redacted number and
4 four digits; do you see that?

5 A. Yes.

6 Q. Are those the last four digits of
7 your social security number?

8 A. Yes.

9 Q. Okay.
10 I don't have anything further on
11 that.

12 Just looking back at 36 for a
13 second.

14 It does state on the first page,
15 it says charge-off balance, \$504.03; do you
16 see that?

17 A. Yes, sir.

18 Q. Do you have any reason to believe
19 that that might not be an accurate number of
20 the balance that was owed at the time Penneys
21 closed your account?

22 MR. FRANK: Objection to the form
23 of the question.

24 You may answer.

25 A. No.

1 Craig Moore

2 Q. Okay.

3 Okay.

4 That's all I really have to do
5 with that one.

6 So we looked at -- with
7 Mr. Williamson you discussed several other
8 lawsuits that you had been a party to and
9 those were all filed in Suffolk County; is
10 that correct?

11 A. Suffolk, yes.

12 Q. Suffolk.

13 And 2011, you were living in
14 Suffolk County?

15 A. Yes, sir.

16 Q. So if somebody were to bring suit
17 against you, that would be the county you live
18 in?

19 A. Yes.

20 Q. Now, we talked earlier, you had
21 said you believe you received calls from
22 Midland, but you didn't speak with them when
23 they called; is that accurate?

24 A. Um, I mean I can't remember
25 speak -- I remember calling them. I remember

1 Craig Moore
2 my wife spoke to somebody. She said they were
3 from some company and that I had called them,
4 'cause I thought it was involving a dispute
5 over a phone charge.

6 Q. And it turned out to be about the
7 JCPenney account?

8 A. I don't know if it was. They
9 never disclosed to me what it was. They just
10 said I owed them and they told me how much I
11 owed them and I was disputing that I didn't
12 owe them and I told them to send me something
13 in reference to it and I never received
14 anything.

15 Q. Do you know about when that was?

16 A. No. Actually, I don't remember.

17 Q. Let's look at the second amended
18 complaint, which is 8.

19 A. (Witness reviewing.)

20 Okay.

21 Q. Yes.

22 If you look at page 2 of this
23 document, the first paragraph starts out
24 "Midland is a consumer debt collector.
25 Midland's business model is predicated upon

1 Craig Moore

2 Q. And we've looked at a couple of
3 JCPenney account statements that Midland
4 produced from its records?

5 MR. FRANK: Objection to the form
6 of the question.

7 We looked at some documents that
8 said the name JCPenney on them. No
9 witness has testified these are account
10 statements.

11 MR. WILLIAMSON: But he could.

12 MR. MATTHEW JOHNSON: Let's see.

13 MR. WILLIAMSON: He identified
14 them as account statements. He did.
15 Your witness, he looked at it and said,
16 yeah, it's an account statements.

17 MR. FRANK: Said it looked like
18 an account statement.

19 MR. WILLIAMSON: Okay.

20 Q. Let's look at Moore 30. Do you
21 have that Moore 30 document in that pile
22 there?

23 While you are at it, if you see
24 Moore 26 as well?

25 A. (Witness reviewing.)

1 Craig Moore

2 Okay.

3 Okay, 30.

4 Q. And 26?

5 A. Got it. Sorry.

6 Q. Sure.

7 So when you had your JCPenney
8 account, did you ever receive any account
9 statements?

10 A. Yeah, I received JCPenney account
11 statements.

12 Q. And looking at the document
13 marked Moore 26 and Moore 30, do these appear
14 to be JCPenney account statements on your
15 account?

16 A. They appear to be. 30 does
17 appear to be an account, yeah.

18 Q. And how about Moore 26, does that
19 look like an account statement to you?

20 A. This looks like an account
21 statement, but I have never received this.

22 Q. Does it look like account
23 statements that you did receive from JCPenney?

24 A. No, 'cause it says no balance.

25 Q. But does the form of the document

1 Craig Moore

2 A. I'm not sure.

3 MR. FRANK: Objection on the
4 basis of privilege.

5 He is not sure. He is not sure.

6 Q. Okay.

7 If you flip up to paragraph 7,
8 which is on page 4 of Moore 8.

9 A. (Witness reviewing.)

10 Page 7?

11 Q. Paragraph 7 on page 4.

12 A. Got it.

13 Q. So this starts "Second, even
14 though Midland knows it cannot actually
15 demonstrate the existence of a debt, Midland
16 engages in a pattern and practice of
17 fraudulently filing lawsuits without
18 evidentiary support in New York courts."

19 Having looked at what appear to
20 be JCPenney account statements provided by
21 Midland on your account, do you believe that
22 Midland can demonstrate the existence of a
23 debt and, in particular, your JCPenney debt?

24 A. I'm assuming so. I'm not sure.

25 Q. If you think they could not

1 Craig Moore

2 demonstrate it, what would cause you to
3 believe they could not demonstrate the
4 existence of this JCPenney account?

5 MR. FRANK: Objection to the form
6 of the question, as to what demonstrate
7 is and whether the existence means mere
8 existence or actual number of the debt?

9 Q. You can answer.

10 A. I don't know if they can or not.
11 If they can, they have to show it to me, I'm
12 assuming.

13 Q. If they were to produce those two
14 exhibits, Moore 30 and 26 that we're talking
15 about as possibly being JCPenney account
16 statements, would you say that that
17 constitutes proof of the -- of your JCPenney
18 account?

19 MR. FRANK: Objection.

20 Calls for speculation.

21 A. I would like to see more. I mean
22 could they produce the actual charges of what
23 I charged? Could they produce that to me of
24 what I purchased?

25 Q. I am asking, if they produce

1 Craig Moore

2 Moore 26 and Moore 30 that we were just
3 talking about, would you say that demonstrates
4 evidence of the existence of this debt, this
5 JCPenney debt?

6 A. I'm assuming so.

7 Q. Okay.

8 A. Yes, I am assuming so.

9 Q. While you were living at the 25
10 Crater Lake Drive address, have you received
11 letters from other debt collectors not
12 Midland?

13 A. Yes.

14 Q. What do you generally do with
15 those letters?

16 A. I open them.

17 Q. Do you ever contact the debt
18 collectors that sent you the letter?

19 A. Depending on who they were.

20 Q. Have you ever disputed a debt
21 with a debt collector?

22 A. Yes.

23 Q. And have you ever received
24 verification of a debt from a debt collector?

25 A. Yes.

1 Craig Moore
2 lacked in terms of evidence to bring suit to
3 collect this JCPenney debt?

4 A. I am not sure what they lacked.

5 MR. FRANK: Objection.

6 This isn't a memory test. It
7 says what they lacked later on in the
8 complaint.

9 MR. FINKEL: Okay, I have to go
10 in the next room.

11 MR. FRANK: Off the record.

12 (Discussion held off the record.)

13 (Recess taken.)

14 BY MR. MATTHEW JOHNSON:

15 Q. So one of the claims in this
16 complaint is that -- well, as it applies to
17 you, your JCPenney GE Money Bank debt was not
18 properly assigned to Midland Funding, maybe
19 that Midland Funding didn't purchase it
20 properly. Do you have any reason to believe
21 that Midland Funding didn't properly purchase
22 your GE Money JCPenney account?

23 A. No.

24 Q. We did see -- we talked earlier
25 about the other lawsuits that you have been

1 Craig Moore

2 A. No.

3 Q. Do you believe that you paid any
4 money to Midland Funding, Midland Credit
5 Management or even Pressler and Pressler that
6 you should not have paid on this JCPenney
7 account?

8 A. No.

9 Q. Okay.

10 Do you believe any of the money
11 you did pay on your JCPenney account at any
12 point should be refunded to you?

13 A. No.

14 MR. MATTHEW JOHNSON: I just need
15 to reserve the right to recall the
16 witness if I need to in connection with
17 the bill of sale matter and possibly in
18 follow-up to any follow-up you might
19 have with your own plaintiff, but that's
20 all the questions I have right now.

21 EXAMINATION BY

22 MR. FRANK:

23 Q. Mr. Moore, thank you so much for
24 being so patient. I know it's been a very
25 long day. We are nearing the end of it.

C E R T I F I C A T E

STATE OF NEW YORK)

) ss.:


COUNTY OF SUFFOLK)

I, CINDY A. AFANADOR, a Notary Public within and for the State of New York, do hereby certify:

That CRAIG MOORE, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of August, 2015.



CINDY A. AFANADOR